

RECORD OF PROCEEDINGS  
AIR FORCE BOARD FOR CORRECTION OF MILITARY RECORDS

IN THE MATTER OF:

DOCKET NUMBER: 93-02092

COUNSEL: NONE

HEARING DESIRED: NO

111.02

JUL 1 1994

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APPLICANT REQUESTS THAT:

His Enlisted Performance Report (EPR) closing 8 March 1991 be removed from his records.

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APPLICANT CONTENDS THAT

He was put under another Staff Sergeant (SSgt) that he out ranked.

Race played an integral part in favoritism. The rater wrote EPRs on the applicant and another individual who is African American, as is the rater. The other individual was given a "5" rating. His (applicant's) performance was equal to, if not surpassing, compared to the other individual.

His past performance reports should be looked at closely. He has been unjustly accused of deteriorating work performance without any substantiated evidence. He has received no letters of counseling or reprimand, no training deficiencies and certainly no indication of a lack of enthusiasm or commitment toward his military career.

In support of his request, applicant provided his personal statement, copies of the contested report, an undated and unsigned Performance Feedback Worksheet, five previous reports and one subsequent report, five statements in his behalf from eo-workers, three letters of appreciation and three quality assurance evaluation/inspection forms. His complete submission is at Exhibit A.

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STATEMENT OF FACTS:

Applicant is currently serving on active duty in the grade of Staff Sergeant.

The contested report, rendered for the period 30 April 1990 through 8 March 1991, contained promotion recommendations of "3" (Satisfactory Performer).

Applicant's APR/EPR profile follows:

<u>PERIOD CLOSING</u>	<u>OVERALL EVALUATION</u>
13 Apr 78	6 (Referral)
13 Apr 79	7
4 Jul 80	8 (w/LOE)
4 Jul 81	8
15 Jun 82	6
15 Jun 83	8
15 Jun 84	8
15 Jun 85	8
15 Jun 86	9
15 Jun 87	9
15 Jun 88	9
15 Jun 89	9
# 29 Apr 90	5 (Exceptional Performer)
* 8 Mar 91	3 (Satisfactory Performer)
8 Mar 92	5
31 Dec 92	5
22 Oct 93	4 (Excellent Performer)

# Rating is based on a scale of 1 to 5 (5 being the highest)

\* Contested report.

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#### AIR STAFF EVALUATION:

The Special Selection Boards (SSBs) and Board for Correction of Military Records (BCMR) Appeals Section, Directorate of Personnel Program Management, AFMPC/DPMAJA1, recommended denial stating an evaluation report is considered to be a fair and accurate assessment of a ratee's duty performance at the time it is rendered. The applicant has not provided any evidence to prove otherwise.

Applicant's claim that he was put under another SSgt, whom he outranked, is without basis. A rater may be a Noncommissioned Officer (NCO) serving in a grade equal to or higher than the ratee.

The applicant has not provided evidence to substantiate his allegation that racial favoritism played a role in the rating he received on the contested report.

In regard to applicant's request that his past performance reports be taken into consideration as indicators of his duty performance, DPMAJA1 stated a report is an evaluation based on the quality and quantity of individual performance during a certain period. Therefore, inconsistencies in reports, past or present, do not invalidate any given report.

The complete DPMAJA1 evaluation is at Exhibit C.

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The Inquiries/Special Actions Unit, Promotion Management Section, AFMPC/DPMAJW1, provided comments concerning supplemental promotion consideration. Should the Board void the contested report in its entirety or upgrade the overall rating, the applicant, provided he is otherwise eligible, will be entitled to supplemental promotion consideration commencing with cycle 93A6. They noted that applicant will not become a selectee for promotion during cycles 93A6 or 94A6 if the Board grants his request. The complete evaluation is at Exhibit D.

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**APPLICANT'S REVIEW OF AIR STAFF EVALUATION:**

Copies of the Air Staff evaluations were forwarded to the applicant on 13 August 1993 for review and comment within 30 days. As of this date, no response has been received by this office.

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**THE BOARD CONCLUDES THAT:**

1. The applicant has exhausted all remedies provided by existing law or regulations.
2. The application was timely filed.
3. Insufficient relevant evidence has been presented to demonstrate the existence of probable error or injustice. Applicant's supporting documents have been thoroughly reviewed. However, we do not find these documents sufficiently persuasive to override the rationale expressed by the Air Staff. By regulation, evaluators are required to assess a ratee's performance, honestly and to the best of their ability. We have reviewed the supportive statements and the evidence provided by the applicant. While laudatory of the applicant's performance, they do not, in our opinion, provide an adequate basis to support findings that the evaluators were unable to render unbiased evaluations of the applicant's performance or that the ratings on the contested report were based on factors other than the applicant's duty performance during the contested rating period. Applicant contends that he was put under another Staff Sergeant whom he outranked. However, assignments within an organization are at the discretion of the officials in charge. The applicant has not shown that the assignment negatively influenced the contested report. In view of the foregoing, we agree with the opinion of the Air Staff and adopt their findings to support our conclusion that the applicant has not been the victim of an error or injustice and that there is no basis upon which to recommend favorable action on his request to remove the contested EPR from his records.

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THE BOARD DETERMINES THAT

The applicant be notified that the evidence presented did not demonstrate the existence of probable material error or injustice; that the application was denied without a personal appearance; and that the application will only be reconsidered upon the submission of newly discovered relevant evidence not considered with this application.

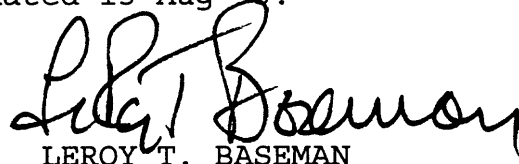
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The following members of the Board considered this application in Executive Session on 17 February 1994, under the provisions of AFR 31-3:

LeRoy T. Baseman, Panel Chairman  
Thomas S. Markiewicz, Member  
Karen Bingo, Member

The following documentary evidence was considered:

- Exhibit A. DD Form 149, dated 13 Oct 92, w/atchs.
- Exhibit B. Applicant's Master Personnel Records.
- Exhibit C. Letter, AFMPC/DPMAJA1, dated 13 Jul 93.
- Exhibit D. Letter, AFMPC/DPMAJW1, dated 19 Jul 93.
- Exhibit E. Letter, AFBCMR, dated 13 Aug 93.

  
LEROY T. BASEMAN  
Panel Chairman

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